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Remarks/Arguments

A. Claims In the Case:

Claims 278-286, 288-292 and 443 were rejected. Claims 278-286, 288-292, and 443-448 are pending. Claims 280 and 289 have been amended. Claims 444-448 are new.

B. The Claims Are Not Anticipated Over Kachel et al. Pursuant To 35 U.S.C. § 102(b)

The Examiner rejected claims 278-284, 288-292 and 443 as being unpatentable over European Patent No. 03818164 A2 to Kachel et al. (herein “Kachel”). Applicant respectfully disagrees with the rejections.

The standard for “anticipation” is one of fairly strict identity. To anticipate a claim of a patent, a single prior source must contain all the claimed essential elements. *Hybritech, Inc. v. Monoclonal Antibodies, Inc.*, 802 F.2d 1367, 231 U.S.P.Q.81, 91 (Fed.Cir. 1986); *In re Donahue*, 766 F.2d 531, 226 U.S.P.Q. 619, 621 (Fed.Cir. 1985).

Amended claim 289 states:

A computer software program for determining a front mold, a back mold and a gasket which together produce a mold cavity, the mold cavity being configured to hold a lens forming composition, wherein the lens forming composition is at least partially cured by activating light to produce an eyeglass lens having a predetermined prescription and wherein the software program comprises a plurality of instructions configured to perform operations comprising:

analyzing prescription information to determine the front mold, the back mold, and the gasket for producing the eyeglass lens; and

determining curing conditions for a lens based on the eyeglass prescription, wherein the curing conditions comprise a dosage of activating light, and wherein the prescription information is analyzed to determine the dosage of activating light required to at least partially cure the lens forming composition.

Support for the amendment is found in Applicant's specification, which states in part:

In another embodiment, an LCD panel may be used to allow different patterns and/or intensities of light to reach two separate mold assemblies. As depicted in Fig. 4, the lens curing unit may be configured to substantially simultaneously irradiate two mold assemblies. If the mold assemblies are being used to create lenses having the same power the light irradiation pattern and/or intensity may be substantially the same for each mold assembly. If the mold assemblies are being used to create lenses having significantly different powers, each mold assembly may require a significantly different light irradiation pattern and/or intensity. The use of an LCD filter may allow the irradiation of each of the mold assemblies to be controlled individually. For example, a first mold assembly may require a pulsed curing scheme, while the other mold assembly may require a continuous irradiation pattern through a patterned filter. The use of an LCD panel may allow such lenses to be formed substantially simultaneously. A first portion of the LCD panel between the light source and the first molding apparatus may be alternatively switched between a darkened and an undarkened state. While a first portion is used to create pulses of activating light, another portion of the LCD panel may be formed into the specific pattern required for the continuous curing of the other lens.

When non-LCD type filters are used it may be necessary to maintain a library of filters for use in the production of different types of prescription lenses. Typically, each individual prescription will need a particular filter pattern to obtain a high quality lens. Since an LCD panel may be programmed into a variety of patterns, it may be possible to rely on a single LCD panel, rather than a library of filters. The LCD panel may be programmed to fit the needs of the specific type of lens being formed. Such a system also minimizes the need for human intervention, since a controller may be programmed for a desired pattern, rather than the operator having to choose among a "library" of filters.

(Specification, page 31, lines 3-27).

After the data relating to the prescription has been added, the controller may prompt the user to enter a job number to save the prescription type. This preferably allows the user to recall a prescription type without having to reenter the data. The job number may also be used by the controller to control the curing conditions for the lens. The curing conditions typically vary depending on the type and prescription of the lens. By allowing the controller access to the prescription and type of lens being formed, the controller may automatically set up the curing conditions without further input from the user....

Curing information includes type of filter being used, initial dose conditions, postcure time, and anneal time. A filter with a 50 mm aperture (denoted as "50 mm") or a clear plate filter (denoted as "clear") may be used. Initial dose is

typically in seconds, with the irradiation pattern (e.g., top and bottom, bottom only) being also designated. The postcure time represents the amount of time the mold assembly is treated with activating light and heat in the postcure unit. The anneal time represents the amount of time the demolded lens is treated with heat after the lens is removed from the mold assembly. While this second database is depicted as a separate database, the database may be incorporated into the mold and gasket database by adding the lens curing information to each of the appropriate records.

(Specification, page 220, lines 5-17).

Applicant submits that Kachel does not appear to teach or suggest determining dosage of activating light used to at least partially cure a lens forming composition to form an eyeglass lens. Kachel appears to teach an automated apparatus to fill mold forms and then placing the mold forms in an oven for thermal curing. Kachel states,

After all the gasket assemblies have been filled with resin, the operator places them in the oven or ovens 26 as the case may be. The ovens 26 subject the resin to a heat cycle which will cause solidification. The typical cycle time will be overnight, however, shorter cycle times may be utilized depending on the resin formulation.

(Kachel, page 16, lines 45-55).

Applicant respectfully submits that Kachel does not appear to teach or suggest the combination of the features of the claim including, but not limited to, the features of: “determining curing conditions for a lens based on the eyeglass prescription, wherein the curing conditions comprise a dosage of activating light, and wherein the prescription information is analyzed to determine the dosage of activating light required to at least partially cure the lens forming composition.” As such, Applicant submits that claim 278 and the claims dependent thereon, are patentable over Kachel.

Claim 289 states in part, “wherein the operations further comprise controlling a lens curing unit, the lens curing unit being configured to cure the lens forming composition, wherein controlling the lens curing unit comprises operating the lens curing unit such that the curing conditions are produced.” Applicant submits that Kachel does not appear to teach or suggest a computer program that determines the curing conditions and that also determines operations to

control a lens curing unit. Kachel appears to teach a computer program to control a mold filling apparatus and the use of independent preprogrammed ovens. Kachel states:

The control functions are initiated by manual or automatic switching functions provided by conventional sensors occurring throughout the operation of the apparatus 10, with the computer 32 providing control signals to sequence the operations of the apparatus 10 generally in accordance with the flow diagram illustrated in Fig. 17.

(Kachel, page 12, lines 41-44)

The sweeper 208 is then retracted [see Fig. 17R step “retract sweep arm”]. This condition is sensed by a switch that indicates that the sweeper 208 has been returned to the home position [see Fig. 17R, step “verify sweep home”]. If this condition is not verified, the sweep retraction cycle is repeated. The shuttle cylinder is activated to move it to the first position which is verified [see Fig. 17R, steps “shuttle stage position 1 cycle 1” and “verify state position 1 052”]. The apparatus is now in condition for a second lens. [see Fig. 17R, function step “another lens same job”]. “After all the gasket assemblies have been filled with resin, the operator places them in the oven or ovens 26 as the case may be.

(Kachel, page 16, lines 48-53).

As such, Applicant submits that of features of claim 289, in combination with the other features of the claim, are patentable over Kachel.

C. The Claims Are Not Obvious Over Kachel Pursuant To 35 U.S.C. § 103(a)

Claims 285-286 have been rejected as being unpatentable over Kachel. Applicant respectfully disagrees with the rejections.

In order to reject a claim as obvious, the Examiner has the burden of establishing a *prima facie* case of obviousness. *In re Warner et al.*, 379 F.2d 1011, 154 USPQ 173, 177-178 (C.C.P.A. 1967). To establish a *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974), MPEP § 2143.03.

Claim 285 states in part, “wherein the front mold member comprises a front mold identification marking, the back mold member comprises a back mold identification marking, the

gasket member comprises a gasket identification marking, and wherein the front mold identification marking comprises an alphanumeric sequence, and wherein the back mold identification marking comprises an alphanumeric sequence, and wherein the gasket identification marking comprises an alphanumeric sequence.” Applicant submits, for at least the reasons stated above, the features of claim 285 in combination with the features of independent claim 278 are not taught or suggested by Kachel.

Claim 286, states in part, “wherein the front mold member comprises a front mold identification marking, the back mold member comprises a back mold identification marking, the gasket member comprises a gasket identification marking, and wherein the operations further comprise producing a visual display of the front mold identification marking, the back mold identification marking, and the gasket identification marking subsequent to analyzing the prescription data.” Applicant submits, for at least the reasons stated above, the features of claim 286 in combination with the features of independent claim 278 are not taught or suggested by Kachel.

D. Additional Remarks

Applicant respectfully requests favorable reconsideration.

Applicant respectfully requests a five-month extension of time. If any further extension of time is required, Applicant hereby requests the appropriate extension of time. Applicant has enclosed a Fee Authorization for the extension of time fee. If any additional fees are required or if any fees have been overpaid, please appropriately charge or credit those fees to Meyertons, Hood, Kivlin, Kowert & Goetzl, P.C. Account Number 50-1505/5040-04207/EBM

Respectfully submitted,



Mark R. DeLuca
Reg. No. 44,649

Patent Agent for Applicant

MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398
(512) 853-8800 (voice)
(512) 853-8801 (facsimile)

Date: 6/3/04